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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/531,022

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Adras Montvay

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

SHELEHEDA, JAMES R

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07/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/531,022	Applicant(s) MONTVAY ET AL.	
	Examiner JAMES SHELEHEDA	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/02/09 has been entered.

Response to Arguments

2. Applicant's arguments filed 05/05/09 have been fully considered but they are not persuasive.

On page 5, of applicant's response, applicant argues that "other users" is defined in applicant's specification as "those that do not use the receiver on which the method is performed."

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's arguments on page 6, it is noted that the language "the user may select other profiles..." is not actually recited within paragraphs 154-155 of Maissel. While these paragraphs disclose the use of profiles from different users, there is no disclosure that the profiles are *required* to be selected by the user. Paragraph 154 indicates that the profile may be downloaded across the broadcast medium, and *if present*, may be used.

Additionally, it is noted that Maissel discloses wherein audience rating information for the programming can be used to influence the customization of the program listings (paragraph 148, 152 and 196). This also clearly meets the current broad claim limitation of "other users of the broadcast medium", as it is using information concerning other viewers to create a rating for the program, which is then used to influence the listings within the program guide.

Finally, it is noted that the current claim language merely requires that the "managing" of the list be performed without requiring input by a user.

Maissel discloses where the creation/customization of the program guide is automated through the use of an intelligent software agent (paragraph 122, 134-135, 148). This agent manages the list "without requiring input by a user", as the system takes all the stored profile data it has generated and then automatically creates a custom listing based upon the collected information.

Therefore, applicant's arguments are not convincing.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6 and 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Maissel et al. (Maissel) (US 2004/0049787 A1) (of record).

As to claim 1, Maissel discloses a method of controlling the program selection at the receiver (customization of the program guide; paragraphs 134-147) of at least one broadcast medium (television network; paragraph 101), the method comprising the steps of:

managing a list of preferred programs (customized program listings based upon user preference; paragraphs 134-147) accordance with predetermined criteria (contained within preference profiles; paragraph 134), without requiring input by a user (paragraph 134 and 154), and in which at least a part of the criteria is based on information about the program evaluation by other users of the broadcast medium (utilizing preference profiles from multiple users; paragraph 134 and 154); and

adapting the receiver's program selection of the receiver to allow a user to navigate through the list (paragraph 201) of preferred programs in accordance with the predetermined criteria (paragraph 134-147).

As to claim 2, Maissel discloses wherein the program evaluation is gained from an inquiry of evaluation notes by other users (paragraph 124, 134,154).

As to claim 3, Maissel discloses wherein at least a part of the predetermined criteria is based on information about:

explicitly predetermined user preferences (paragraph 124); and
implicitly gained user preference (paragraph 123).

As to claim 4, Maissel discloses wherein the criteria are weighted adaptively (paragraph 169).

As to claim 5, Maissel discloses wherein control inputs enable a user to navigate stepwise through the list (paragraph 201-203; Fig. 9A-9C).

As to claim 6, Maissel discloses a method of controlling the program selection at the receiver of at least one broadcast medium, in which a list of preferred programs (customized program listings based upon user preference; paragraphs 134-147) is managed in accordance with predetermined criteria (contained within preference

profiles; paragraph 134), and in which control inputs enable a user to navigate stepwise through the list (paragraph 201-203; Fig. 9A-9C), particularly a method as claimed in claim 1 (see the rejection of claim 1 above), wherein a new program is added to the list (paragraph 134, 135 and 138), when its limits are exceeded when navigating through said list (program viewing which exceeds a set minimum time period; paragraph 178).

As to claim 8, Maissel discloses wherein program information is supplied when a program is selected from the list (paragraph 201).

As to claim 9, Maissel discloses a receiver for at least one broadcast medium (110, Fig. 1; paragraph 101), comprising a processing unit (paragraph 102) for managing a list of preferred programs (customized program listings based upon user preference; paragraphs 134-147) in accordance with predetermined criteria (contained within preference profiles; paragraph 134), wherein the processing unit has an input for information signals relating to the program evaluation by other users of the broadcast medium (utilizing preference profiles from multiple users; paragraph 134 and 154) and wherein it is adapted to perform a method as claimed in claim 1 (see the rejection of claim 1 above).

As to claim 10, Maissel discloses a method as claimed in claim 1 (see claim 1 above), or a receiver as claimed in claim 9 (see claim 9 above), wherein the broadcast medium is television (paragraph 101).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel.

As to claim 7, while Maissel discloses wherein the order of the programs within the listing may be changed (paragraph 136), he fails to specifically disclose wherein programs fulfilling a temporally limited negative criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the negative criterion.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant sort a program listing wherein programs fulfilling a temporally limited negative criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the negative criterion, such as by sorting the programs within the list by start time wherein programs having a later start time are listed later within the list, so as to provide a more user friendly system by easily allowing the viewer to identify which programs are currently playing and which programs require the viewer to wait some period of time until they begin.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Maissel's system to include wherein programs fulfilling

a temporally limited negative criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the negative criterion, so as to provide a more user friendly system by easily allowing the viewer to identify which programs are currently playing and which programs require the viewer to wait some period of time until they begin.

Conclusion

7. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

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10/531,022
Art Unit: 2424

Page 9

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. () _____ - _____ on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is (571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Sheleheda/
Primary Examiner, Art Unit 2424

JS